**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE V.GIRI**

**THURSDAY, THE 6TH DECEMBER 2007 / 15TH AGRAHAYANA 1929**

**WP(C).No. 15533 of 2007(Y)**
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**PETITIONER:**
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**SRI.T.P.THOMMEN, THACHILUKANDATHIL,**
**MIZHUMURY P.O., RAMAMANGALAM- 686 663.**

**BY ADV. SRI.SIBY MATHEW**
**SRI.PHILIP J.VETTICKATTU**

**RESPONDENTS:**
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, HEALTH DEPARTMENT, SECRETARIAT, TRIVANDRUM.**

2. **THE DIRECTOR OF HEALTH SERVICES, DIRECTORATE OF HEALTH SERVICE, TRIVANDRUM.**

3. **THE DISTRICT MEDICAL OFFICER, ERNAKULAM.**

**BY SR. GOVERNMENT PLEADER SRI. NANDAKUMAR**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/12/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

*KSS*

**WPC.NO.15533/2007 Y**

**APPENDIX**

**PETITIONER'S EXHIBITS:**

**EXT.P1:** **COPY OF LETTER DTD. 19/07/2001 ISSUED BY THE STORE SUPERINTENDENT TO THE 2ND RESPONDENT.**

**EXT.P2:** **COPY OF LETTER DTD. 16/08/2001 ISSUED BY THE 2ND RESPONDENT TO THE STORE SUPERINTENDENT,DISTRICT MEDICAL STORE, WAYANAD, MANNANTHAVADI.**

**EXT.P3:** **COPY OF LETTER DTD. 4/10/2001 ISSUED BY THE STORES SUPERINTENDENT, TO THE STORE SUPDT. DISTRICT MEDICAL STORE, WAYANAD.**

**EXT.P4:** **COPY OF LETTER DTD. 5/11/2001 ISSUED BY THE STORE SUPDT. DISTRICT MEDICAL CENTRE, WAYANAD TO THE STORE SUPDT., ERNAKULAM.**

**EXT.P5:** **COPY OF LETTER DTD. 25/04/2002 ISSUED BY THE PETITIONER TOT HE 3RD RESPONDENT.**

**EXT.P6:** **COPY OF NOTICE DTD. 25/04/2003 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.**

**EXT.P7:** **COPY OF LETTER DTD. 5/08/2002 ISSUED BY THE 3RD RESPONDENT TO THE 2ND RESPONDENT.**

**EXT.P8:** **COPY OF LETTER DTD. 14/12/2005 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**

**EXT.P9:** **COPY OF LETTER DTD. 14/02/2006 ISSUED BY THE 2ND RESPONDENT TO THE SUB TREASURY OFFICER, PIRAVOM, ERNAKULAM.**

**/TRUE COPY/**

**P.A.TO JUDGE**

*KSS*

**V.GIRI, J.**

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**W.P.(C)NO.15533 OF 2007**

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**Dated this the 6th day of December 2007**

**JUDGMENT**

Petitioner retired from service on 31.8.2002. The death cum retirement gratuity due to him was disbursed deducting an amount of Rs.33,310/=. Subsequently on 14.12.2005, Ext.P8 was issued to the petitioner requiring him to show cause why an amount of Rs.33,310/- should not be recovered from his admitted DCRG. Reference is made in Ext.P8 to another letter dated 12.12.2005 from the DHS. It seems to be fairly clear, going through the writ petition as also the counter affidavit filed by the second respondent, that final liability as against the petitioner was not fixed within a period of three years from the date of retirement, namely, on or before 31.8.2005. Subsequent fixation of the liability will not enable the respondents to recover the amount from the DCRG.

2. In the circumstances, the writ petition is disposed of directing the second respondent to disburse the balance amount due to the petitioner by way of DCRG independent of Ext.P8, within a period of one month from the date of receipt of a copy of this judgment. It is made clear that this will be without prejudice to the right of the government to recover any amount from the petitioner, if a loss has been caused to the government by the petitioner, in accordance with law.

**V.GIRI, JUDGE**

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